

Article 4.

Community Colleges Facilities General Obligation Finance Act.

§ 116D-41. Short title.

This Article may be cited as the Community College Facilities General Obligation Finance Act. (2000-3, s. 1.2.)

§ 116D-42. Definitions.

The following definitions apply in this Article:

- (1) Bonds. – Bonds authorized to be issued under this Article, including refunding bonds.
- (2) Community college. – Defined in G.S. 115D-2.
- (3) Community college general obligation bonds. – Bonds authorized to be issued under this Article, including refunding bonds.
- (4) Community Colleges System Office. – The North Carolina Community Colleges System Office, created by Article 1 of Chapter 115D of the General Statutes, or if the Community Colleges System Office is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions, or upon which are conferred by law the rights, powers, and duties given by this Article to the Community Colleges System Office.
- (5) Notes. – Notes issued under this Article. (2000-3, s. 1.2.)

§ 116D-43. Authorization of bonds and notes.

Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing community college general obligation bonds in the election held as provided by law, and upon the application of the Community Colleges System Office, the State Treasurer may, by and with the consent of the Council of State, issue and sell, at one time or from time to time, community college general obligation bonds of the State to be designated "State of North Carolina Community College General Obligation Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State. Except as otherwise provided by this Article, the aggregate amount of bonds and notes issued pursuant to this Article shall not exceed six hundred million dollars (\$600,000,000). The bonds and notes shall be issued in the following years up to the following amounts:

Fiscal Year	Aggregate Amount
2000-2001	\$48,400,000
2001-2002	58,100,000
2002-2003	116,100,000
2003-2004	116,100,000
2004-2005	135,500,000
2005-2006	125,800,000

If less than the aggregate amount of bonds or notes authorized to be issued in a fiscal year is issued in that fiscal year, the balance for that fiscal year may be issued in any subsequent fiscal year. Refunding bonds and notes issued pursuant to G.S. 116D-46(f) shall not be included in the limitation on the aggregate amount of bonds and notes that may be issued pursuant to this Article.

The proceeds of bonds or notes issued under this Article shall be applied to finance the cost of grants to be made by the State to community colleges to finance the cost of capital facilities for

the community college or to refund any outstanding bonds or notes issued under this Article. The capital facilities to be improved, constructed, or acquired with the proceeds of bonds or notes shall be determined as provided in G.S. 116D-44. (2000-3, s. 1.2.)

§ 116D-44. Designation of capital facilities and preconditions to bond issuance.

The capital facilities to be financed in whole or in part with the proceeds of community college general obligation bonds shall be described in legislation enacted from time to time by the General Assembly. This legislation shall also provide for voter approval of the bonds to finance the capital facilities and shall become effective only upon approval by the voters. The proceeds of community college general obligation bonds shall not be expended to pay the costs of any capital facilities other than those described in that legislation. (2000-3, s. 1.2.)

§ 116D-45. Faith and credit.

The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. The State retains the right to amend any provision of this Article to the extent it does not impair any contractual right of a bond owner. (2000-3, s. 1.2.)

§ 116D-46. Issuance of bonds and notes.

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 25 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at any prices, including a price greater than the face amount of the bonds or notes, and under any terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. – Bonds or notes may be issued in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the Great Seal of the State or a facsimile of the Seal impressed or imprinted on them. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All

expenses incurred in the preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys which may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

- (1) For anticipating the sale of bonds the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.
- (2) For the payment of interest on or any installment of principal of any bonds then outstanding, if there are not sufficient funds in the State treasury with which to pay the interest or installment or principal as they respectively become due.
- (3) For the renewal of any loan evidenced by notes authorized in this Article.
- (4) For the purposes authorized in this Article.
- (5) For refunding bonds or notes as authorized in this Article.

Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which have been used in paying interest on or principal of the bonds.

(f) Refunding Bonds and Notes. – By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes for the purpose of refunding bonds or notes issued pursuant to this Article and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the bonds or notes being refunded or, if not required for the immediate payment of the bonds or notes being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the bonds or notes being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) obligations of any agency or instrumentality of the United States government if the timely payment of principal and interest on the obligations is unconditionally guaranteed by the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of bonds or notes being refunded but that have

not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Community College Bonds Fund. – The proceeds of community college general obligation bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Community College Bonds Fund". Moneys in the Community College Bonds Fund shall be used for the purposes set forth in this Article.

Any additional moneys that may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any community college capital facilities authorized by this Article may be placed by the State Treasurer in the Community College Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

The proceeds of community college general obligation bonds and notes may be used with any other moneys made available by the General Assembly for the making of grants to community colleges for capital facilities, including the proceeds of any other State bond issues, whether previously made available or which may be made available after the effective date of this Article. The proceeds of community college bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this Article for grants to community colleges shall be disbursed for the purposes provided in this Article upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the State Budget Act, Chapter 143C of the General Statutes. (2000-3, s. 1.2; 2001-414, s. 46; 2006-203, s. 57.)

§ 116D-47. Variable rate demand bonds and notes.

(a) In fixing the details of bonds and notes, the State Treasurer may provide that the bonds and notes may:

- (1) Be made payable from time to time on demand or tender for purchase by the owner, if a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially and adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State.
- (2) Be additionally supported by a credit facility.
- (3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.
- (4) Bear interest at rates that may vary from any periods of time, as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, any variations as may be permitted pursuant to a par formula.
- (5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium, or for any other reason, then the amount of authorized but unissued bonds or notes during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer. (2000-3, s. 1.2.)

§ 116D-48. Other agreements.

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of bonds or notes. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, and bond attorneys to be associated with any bond issue under this Article as the State Treasurer considers necessary. (2000-3, s. 1.2.)

§ 116D-49. Procurement of capital facilities.

Any laws, rules, or regulations of the State that relate to the acquisition and construction of capital facilities shall apply to the capital facilities financed pursuant to this Article. (2000-3, s. 1.2.)

Article 5.

Managing Debt Capacity.

§ 116D-55. Purpose.

The purpose of this Article is to provide tools for sound debt management at The University of North Carolina by requiring each constituent institution to conduct an annual debt affordability study, by requiring the establishment of guidelines for maintaining prudent debt levels, and by establishing a system for prioritizing University capital needs when the needs exceed the University's capacity for new debt. (2015-241, s. 31.13.)

§ 116D-56. Debt affordability study required.

(a) Study Required. – The Board of Governors shall annually advise the Governor and the General Assembly on the estimated debt capacity of The University of North Carolina for the upcoming five fiscal years. The Board shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the University's debt burden. The guidelines should include target and ceiling ratios of debt to obligated resources and target and floor percentages for the five-year payout ratio. The Board shall also recommend any other debt management policies it considers desirable and consistent with sound management of the University's debt.

(b) Board of Governors Reporting Required. – The Board shall report its findings and recommendations to the Office of State Budget and Management, the Joint Legislative Commission on Governmental Operations, the State Treasurer, and The University of

North Carolina System Office by April 1 of each year. The report shall be accompanied by each of the reports provided to the Board pursuant to subsection (c) of this section.

(c) **Constituent Institution Reporting Required.** – No later than February 1 of each year, each constituent institution shall report to the Board of Governors on its current and anticipated debt levels. The report shall be made in a uniform format to be prescribed by the Board of Governors. Each report shall include at least the following:

- (1) The amount and type of outstanding debt of the institution.
- (2) The sources of repayment of the debt.
- (3) The amount of debt that the institution plans to issue or incur during the next five years.
- (4) A description of projects financed with the debt.
- (5) The current bond rating of the institution and information about any changes to that bond rating since the last report was submitted.
- (6) Information about the constituent institution's debt management policies and any recommendations for methods to maintain or improve the University's bond rating.
- (7) Debt burden comparisons to comparable peer institutions.
- (8) Any other information requested by the Board of Governors.

(d) **Definitions.** – The following definitions apply in this section:

- (1) **Debt.** – Debt incurred under this Chapter or any other debt that will be serviced with funds available to the institutions from gifts, grants, receipts, Medicare reimbursements for education costs, hospital receipts from patient care, or other funds, or any combination of these funds, but not including debt that will be serviced with funds appropriated from the General Fund of the State.
- (2) **Obligated resources.** – As defined in G.S. 116D-22. (2015-241, s. 31.13; 2016-94, s. 37.6; 2018-12, s. 13.)